



DEPARTMENT OF THE ARMY

ST. PAUL DISTRICT, CORPS OF ENGINEERS
ARMY CORPS OF ENGINEERS CENTRE
190 FIFTH STREET EAST
ST. PAUL, MN 55101-1638

REPLY TO
ATTENTION OF

September 7, 2001

Construction-Operations
Regulatory (2001-07207-JJY)

Mr. Kenneth Powell
Kjolhaug Environmental Services Company
26105 Wild Rose Lane
Shorewood, Minnesota 55331

Dear Mr. Powell:

We have reviewed the information you provided about the proposal by St. Croix Properties to fill approximately 0.205 acre of unnamed wetland for the Hills of Elm Creek West development. The project site is in NE 1/4 SE 1/4 Sec. 29, T. 119 N., R. 22 W., City of Maple Grove, Hennepin County, Minnesota, as shown on the attached drawings.

This jurisdictional determination takes into consideration the U.S. Supreme Court decision in Solid Waste Agency of Northern Cook County v. Corps of Engineers (the SWANCC decision). The area covered by this determination is a wetland of approximately 0.63 acre.

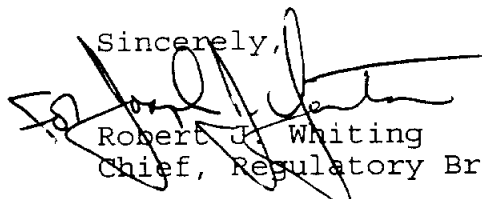
The subject water body is not a "water of the United States" because it is: (1) not a "navigable water" as defined by Federal law, (2) not an interstate water, (3) not part of a tributary system to (1) or (2), (4) not a wetland adjacent to any of the foregoing, and (5) not an impoundment of any of the above. In addition, the interstate commerce nexus to this particular water body is insufficient to establish Clean Water Act jurisdiction. This water body is therefore not subject to regulation by the Corps of Engineers under Section 404 of the Clean Water Act. Please note that a water that is not jurisdictional under Federal law may still be subject to regulation by the State.

This jurisdictional determination is valid only for the project and water body referenced above. It is based on the Headquarters guidance available to us at this time.

PLEASE NOTE THAT THIS LETTER DOES NOT ELIMINATE THE NEED FOR OTHER FEDERAL, STATE, LOCAL, OR OTHER AUTHORIZATIONS (SUCH AS THOSE OF THE WATERSHED DISTRICT OR CITY).

If you have any questions, contact Mr. Joseph Yanta in our St. Paul office at (651) 290-5362. In any correspondence or inquiries, please refer to the Regulatory number shown above.

Sincerely,


Robert J. Whiting
Chief, Regulatory Branch

Enclosures

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